

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 DEBORAH NORRIS,

10 Plaintiff,

11 v.

12 WAL-MART STORES, INC., and  
HALLMARK CARDS, INC.

13 Defendants.

C15-1954 TSZ

ORDER

14 THIS MATTER comes before the Court on a motion to dismiss, docket no. 28,  
15 brought by defendant Hallmark Cards, Inc. (“Hallmark”), to which no response was  
16 timely filed. When plaintiff initiated this action and when Hallmark filed its motion to  
17 dismiss, plaintiff was represented by counsel. After Hallmark filed its motion to dismiss,  
18 plaintiff’s counsel was granted leave to withdraw, and plaintiff was advised that, if she  
19 wished to be represented by counsel, she must arrange for an attorney to file a notice of  
20 appearance on or before August 19, 2016. See Minute Order (docket no. 31). Hallmark’s  
21 motion was renoted to allow plaintiff an opportunity to secure substitute counsel before  
22  
23

1 opposing it. See Minute Order (docket no. 34). No new attorney has appeared, and  
2 plaintiff is deemed to be proceeding pro se.<sup>1</sup> Plaintiff pro se has neither objected to  
3 Hallmark's motion nor requested an extension of time to file a response.

4 Having reviewed Hallmark's motion and all papers filed in support of it, the Court  
5 concludes that the motion has merit. This case involves an injury plaintiff allegedly  
6 sustained while shopping in the Hallmark greeting card section at the Wal-Mart store in  
7 Renton, Washington. The incident at issue occurred on February 8, 2013. In November  
8 2015, plaintiff commenced this litigation against Wal-Mart Stores, Inc. Hallmark was  
9 not added as a defendant until plaintiff filed an amended complaint in April 2016, over  
10 three years after her cause of action against Hallmark accrued. See RCW 4.16.080  
11 (personal injury claims are subject to a three-year period of limitations). Plaintiff has not  
12 asserted that she could not have discovered, through the exercise of reasonable diligence,  
13 prior to February 2016, the facts underlying her claims against Hallmark. See In re  
14 Estates of Hibbard, 118 Wn.2d 737, 826 P.2d 690 (1992) (discussing the "discovery  
15 rule"). Moreover, plaintiff has provided no basis for relating back to the date of her  
16 original complaint the claims asserted against Hallmark in her amended complaint. See  
17 Fed. R. Civ. P. 15(c). Plaintiff's claims against Hallmark are time barred.

18 For the foregoing reasons, Hallmark's motion to dismiss, docket no. 28, is  
19 GRANTED, and plaintiff's claims against Hallmark are DISMISSED with prejudice. By  
20

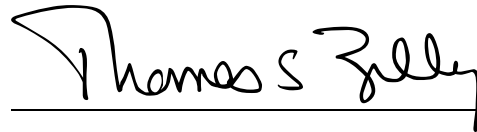
---

21 <sup>1</sup> A Joint Status Report, docket no. 36, was recently filed, reciting that plaintiff pro se, along with  
22 counsel for defendants Wal-Mart Stores, Inc. and Hallmark, participated in submitting it to the  
23 Court, but the Joint Status Report was not actually signed by plaintiff pro se.

1 separate order, the Court will set, with respect to plaintiff's remaining claims against  
2 Wal-Mart Stores, Inc., a trial date and related dates and deadlines. The Clerk is  
3 DIRECTED to send a copy of this Order to all counsel of record and to plaintiff pro se.

4 IT IS SO ORDERED.

5 Dated this 20th day of September, 2016.

6  
7 

8 Thomas S. Zilly  
9 United States District Judge  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23